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DOCKET FILE COPY ORIGINAL

December 14, 1999

OUR FILE NO.
0090-150-63

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals II
445 12th St., S.W.
Room TW-A325
Washington, DC 20554

RECEIVED
DEC 14 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: DTV Table of Allotments
Henderson, Nevada

Subject: Petition for Rule Making

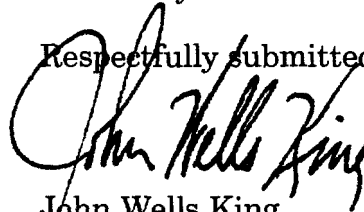
Dear Ms. Salas:

On behalf of KVVU Broadcasting Corporation, licensee of Television Broadcast Station KVVU-TV, Henderson, Nevada, I transmit herewith the original and four copies of its Petition for Rule Making, proposing an amendment to the Digital Television Table Of Allotments, Section 73.622(b) of the Commission's Rules.

This Petition proposes a change in the DTV allotment at Henderson, Nevada, by substituting DTV Channel 9 for KVVU-TV's DTV Channel 24.

Kindly communicate any questions directly to this office.

Respectfully submitted,


John Wells King

JWK/ah
Enclosure

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List ABCDE MMB

Before The
Federal Communications Commission
Washington, D.C. 20554

In The Matter Of)
)
Amendment of Section 73.622(b)) RM-
Digital Television Table of Allotments)
(Henderson, Nevada))

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: The Chief, Mass Media Bureau

Petition for Rule Making

KVVU Broadcasting Corporation, licensee of Television Broadcast Station KVVU-TV, Henderson, Nevada ("Petitioner"), through its attorneys and pursuant to Sections 1.419, 1.420, and 73.623 of the Commission's Rules, hereby requests that the Table of Allotments for Digital Television ("DTV") Stations, Section 73.622(b) of the Commission's Rules, be amended as follows:

<u>City</u>	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
Henderson, Nevada	24	9

In support of this request, Petitioner states as follows:

1. Petitioner seeks to substitute DTV Channel 9 in lieu of DTV Channel 24 at Henderson, Nevada, for use by Station KVVU-DT. DTV

Channel 24 was allotted for use by KVVU-DT pursuant to the *Sixth Report and Order*.¹

2. As set forth in the attached engineering statement of Dane E. Ericksen, P.E., of the consulting engineering firm of Hammett & Edison, Inc., the proposed DTV channel substitution is fully consistent with the requirements of Section 73.623(c) and 76.625(a) of the Commission's Rules. The proposed channel substitution complies with the principal community coverage requirements and will not cause additional interference to any other full-service NTSC or DTV station, application, construction permit, or allotment. Moreover, there will be no impact to any co-channel or adjacent-channel LPTV station, including any such station that may wish to upgrade to Class A protected status pursuant to the Community Broadcasters Protection Act of 1999.

3. The proposed substitution would be of substantial benefit to the public, and will further the public interest.

4. First, it will better replicate the area and population currently served by KVVU-TV. The DTV Table pairs VHF NTSC Channel 5 at Henderson, Nevada, with UHF DTV Channel 24. The Commission's objective in such pairings was to enable NTSC stations to replicate their

¹ MM Docket No. 87-268, 12 FCC Rcd 14588 (1997), *recon. granted in part*, 13 FCC Rcd 7418 (1998).

service areas.² The allotment for KVVU-TV falls far short of this goal, however. According to Mr. Ericksen's engineering statement, although DTV Channel 24 will replicate 99.52% of the population currently served by KVVU-TV, it will replicate only 78.3% of the area.³ The proposed DTV Channel 9 facilities, however, will replicate 99.9% of the population and 108.8% of the area presently served by KVVU-TV.⁴

5. The 78.3% area replication factor which KVVU-TV suffers under the current DTV allotment is critical for one cardinal reason: Henderson is the fastest-growing large city in the United States. Its estimated population of 152,717 as of July 1, 1998, represents a 135% increase above its 1990 census of 64,948.⁵ The next fastest growing American city, Chandler City, Arizona, has grown by 78% in that same 8-year period, a rate of growth roughly half that of Henderson's. In order for KVVU to prepare for service to the next generation of viewers, it must plan for and place into operation facilities that will cover to the maximum

² *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, FCC 98-315, released December 18, 1998, at ¶ 1.

³ Mr. Ericksen calculates that KVVU's NTSC population of 734,629 persons will be replicated to the extent of 731,137 persons on DTV Channel 24. Its NTSC area of 28,355 square kilometers will be replicated only to the extent of 22,191 square kilometers.

⁴ The DTV Channel 9 facilities would serve 734,469 persons in 30,850 square kilometers.

⁵ Source: <http://www.census.gov/population/estimates/metro-city/SC100K98-T2-DR.txt>.

extent possible, the replicated area of service, which is expected to grow in population at a record rate over the next decade.

6. The second reason that a grant of the proposed channel substitution will benefit the public and serve the public interest is that it will enable KVVU-DT to share an antenna and transmission line with KLVX-DT, Channel 11, Las Vegas. The stations plan to mount a combined antenna on the new American Tower Corporation tower at the Black Mountain antenna farm.

7. Finally, the proposed channel substitution will serve the public interest because KVVU-DT will avoid the substantially higher operating costs for electrical power usage with a UHF Channel 24 operation. Adoption of the proposed substitution by the Commission will therefore promote construction and operating cost savings that will make available additional resources for Petitioner to devote to promoting and providing DTV programming to the public.

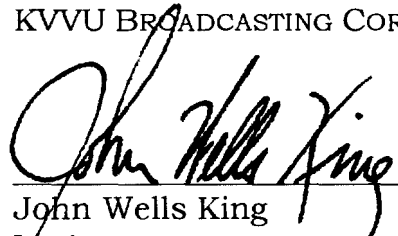
8. The proposed substitution of DTV Channel 9 for DTV Channel 24 would permit KVVU-DT to replicate fully its service area. It will enable Petitioner to realize significant cost savings in construction and operation. It complies fully with the Commission's coverage and allocation criteria. Accordingly, and for the foregoing reasons, Petitioner submits that the proposed DTV channel substitution will serve the public

interest. The Commission is respectfully requested to issue a notice of proposed rule making granting this petition.

Respectfully submitted,

KVVU BROADCASTING CORPORATION

By



John Wells King
Its Attorney

HALEY BADER & POTTS P.L.C.
Suite 900
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703/841-0606
December 14, 1999

**Station KVVU-DT
as Channel 9
Henderson, Nevada**

**Engineering Exhibit
in Support of Petition for Rulemaking
to Substitute DTV Channel 9 for
DTV Channel 24 at Henderson, Nevada**

December 9, 1999

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HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

Station KVVU-DT • as Channel 9 • Henderson, Nevada

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by KVVU Broadcasting Corporation, licensee of TV Station KVVU, NTSC Channel 5, Henderson, Nevada, to prepare an engineering exhibit in support of a petition for rule making to amend the DTV Table of Allotments to substitute DTV Channel 9 for DTV Channel 24 at Henderson, Nevada.

Background Information

In the Sixth Report and Order to MM Docket 87-268, Station KVVU-DT was assigned DTV Channel 24. KVVU-DT prefers to construct its DTV facilities on a VHF channel, which would have lower operating costs and also would allow the sharing of an antenna and transmission line with Station KLVX-DT, Channel 11, Las Vegas.

Accordingly, engineering studies have been undertaken to see if DTV Channel 9 could be substituted for DTV Channel 24 at Henderson. As will be demonstrated by the remainder of this engineering exhibit, such a channel substitution can be made in compliance with all FCC rules and policies.

Proposed KVVU-DT as Channel 9 Facilities

The DTV Channel 9 facilities proposed for KVVU-DT as DTV Channel 9 are a Dielectric Type TF-6AH (S) DC 6-bay Superturnstile omnidirectional antenna a center-of-radiation height of 74 meters AGL, 1,098 meters AMSL, and 407 meters HAAT. The proposed coordinates for the combined KVVU-DT/KLVX-DT antenna would be those of the new American Tower Corporation tower at the Black Mountain antenna farm ("Tower 5A"); those coordinates are 36° 00' 28" N, 115° 00' 24" W (NAD 27). The proposed main-beam effective radiated power would be 85.6 kW, which is the maximum allowed by Section 73.622(f)(7)(i) of the FCC Rules for the proposed effective height.

Protection of Other Stations

As shown by the attached OET-69 interference study, Figure 1, KVVU-DT as Channel 9 is not predicted to cause additional interference to any other full-service NTSC or DTV station, application, construction permit, or allotment.

Station KVVU-DT • as Channel 9 • Henderson, Nevada

Coverage of City of License

As shown by the attached Figure 2, an OET-69 coverage study for KVVU-DT as Channel 9, the proposed KVVU-DT facilities would completely cover Henderson with its F(50,90) 36 dBu contour.

Substitution of Channel 9 at the requested power and height (85.6 kW omnidirectional at 407 meters HAAT) for the allotted Channel 24 facilities (1,000 kW using the near-omnidirectional replication pattern at 363 meters HAAT) would take the replicated coverage area from 78.3% of the KVVU-TV NTSC Channel 5 coverage area to 108.8% of the KVVU-TV coverage area, and would essentially match the station's NTSC terrain-limited, interference-free population served, as follows:

<u>Facility</u>	<u>Terrain-Limited, Interference-Free Area</u>	<u>Terrain-Limited, Interference-Free Population</u>
KVVU-TV, N05	28,355 sq. km	734,629 persons (1990 Census)
KVVU-DT, D24	22,191 (78.3%)	731,127 (99.52%)
KVVU-DT, as D09	30,850 (108.8%)	734,469 (99.99%)

Because Clark County is one of the fastest growing counties in the United States, improving the coverage area replication from 78.3% to 108.8% provides the opportunity to serve the expanding population areas of Clark County, while simultaneously reducing the station's operating costs, because of the lower transmitter and effective radiated powers sufficient for VHF operation.

Mexican Concurrence

The proposed KVVU-DT as Channel 9 site is approximately 350 kilometers from the U.S.-Mexico border. Since this is more than 275 kilometers from the Mexican border, concurrence by the Mexican government is not required.

No Impact to Any LPTV Stations

A search of the Commission's database shows no Channel 9 low power television ("LPTV") stations (that is, stations with a four-letter call sign and with the "-LP" suffix) within 273.6 kilometers of the proposed site (273.6 kilometers is the minimum transmitter-to-transmitter spacing specified in Section 73.623(d)(2) of the FCC Rules between co-channel DTV and NTSC stations located in Zones II and III). Since this spacing is designed to protect a full-service NTSC station from a co-channel DTV station, it is clear that such spacing must also ensure protection of any co-channel LPTV stations.



Station KVVU-DT • as Channel 9 • Henderson, Nevada

Because of the presence of Stations KLAS-TV, NTSC Channel 8, Las Vegas, and KLVX, NTSC Channel 10, Las Vegas, it is clear that there could be no impact to any adjacent-channel LPTV stations, as the NTSC Channel 8 and NTSC Channel 10 stations would have a much greater precluding effect, in effect sweeping the area clear of any LPTV stations on Channels 8 or 10 sufficiently close to be impacted by KVVU-DT as Channel 9.

Summary

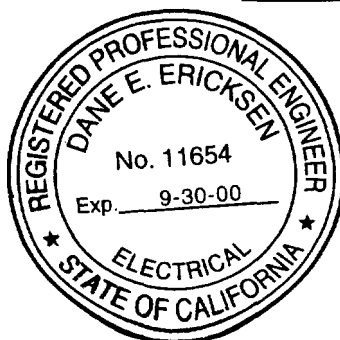
The DTV Table of Allotments can be modified to substitute DTV Channel 9 for DTV Channel 24 at Henderson, Nevada. The proposed KVVU-DT as Channel 9 facilities would completely cover Henderson and would not cause more than 2% *de minimus* new interference to any other full-service NTSC or DTV stations. This substitution would further have no impact on any LPTV stations that might wish to upgrade to Class A protected status pursuant to the Community Broadcasters Protection Act of 1999.

List of Figures

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. OET-69 interference study for KVVU-DT as Channel 9
2. Map showing coverage of Henderson, Nevada.

December 9, 1999



A handwritten signature in black ink, appearing to read "Dane E. Ericksen", written over a horizontal line.

Dane E. Ericksen, P.E.



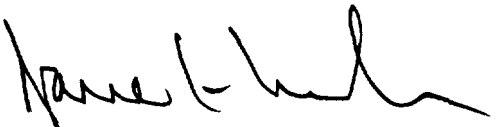
Affidavit

State of California
County of Sonoma

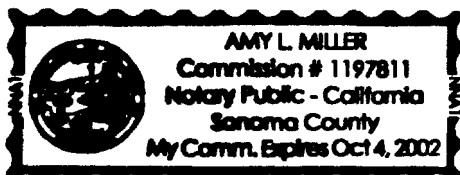
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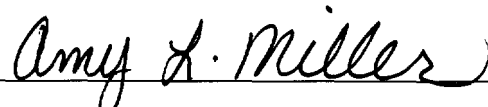
Dane E. Ericksen, being first duly sworn upon oath, deposes and says:

1. That he is a qualified Registered Professional Engineer, holds California Registration No. E-11654, which expires on September 30, 2000, and is employed by the firm of Hammett & Edison, Inc., Consulting Engineers, with offices located near the city of San Francisco, California,
2. That he graduated from California State University, Chico, in 1970, with a Bachelor of Science Degree in Electrical Engineering, was an employee of the Field Operations Bureau of the Federal Communications Commission from 1970 to 1982, with specialization in the areas of FM and television broadcast stations and cable television systems, and has been associated with the firm of Hammett & Edison, Inc., since October 1982,
3. That the firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by KVVU Broadcasting Corporation, licensee of TV Station KVVU, NTSC Channel 5, Henderson, Nevada, to prepare an engineering exhibit in support of a petition for rule making to amend the DTV Table of Allotments to substitute DTV Channel 9 for DTV Channel 24 at Henderson, Nevada,
4. That such engineering work has been carried out by him or under his direction and that the results thereof are attached hereto and form a part of this affidavit, and
5. That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge except such statements made therein on information and belief and, as to such statements, he believes them to be true.


Dane E. Ericksen, P.E.

Subscribed and sworn to before me this 9th day of December, 1999







HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

991129.1
Affidavit